



LEWIS THOMASON

LEWIS, THOMASON, KING, KRIEG & WALDROP, P.C.  
424 Church Street, Suite 2500  
P.O. Box 198615  
Nashville, TN 37219  
T: (615) 259-1365 F: (615) 259-1389

Charles W. Cagle  
DL: (615) 259-1365  
ccagle@lewisthomason.com

July 7, 2016

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

Re: Consolidated Request for Review and/or Waiver by Sweetwater City  
Schools et al. of Funding Decisions by the Universal Service  
Administrative Company, CC Docket No. 02-6

Dear Ms. Dortch:

This letter responds to a letter filed by AT&T Services, Inc., on June 23, 2016, regarding the above-captioned appeal.<sup>1</sup> In its letter, AT&T purports to refute statements made in an ex parte letter filed on behalf of Education Networks of America, Inc. (ENA) and the Sweetwater Consortium (Sweetwater) on May 23, 2016, following a meeting with Wireline Competition Bureau staff.<sup>2</sup> For the reasons set forth below, AT&T's arguments are untimely, unconvincing and irrelevant to the Commission's consideration of Sweetwater's appeal.

AT&T addresses and attempts to dispute two of the flaws that Sweetwater identified with the pricing of AT&T's bid: first, that the price quoted in AT&T's bid did not include installation charges;<sup>3</sup> and second, that the price quoted in the bid was undermined by language indicating that the actual prices of services would be determined by AT&T's statewide NetTN contract.<sup>4</sup>

As an initial matter—and most importantly—the claims in AT&T's letter are irrelevant to the Commission's consideration of Sweetwater's appeal. Sweetwater reminds the Commission that in its bid evaluation process which occurred over three years ago, Sweetwater gave AT&T the highest possible score on the pricing section of its bid, to ensure that it was treating AT&T fairly, despite the glaring shortcomings and omissions that Sweetwater describes in its appeal and

---

<sup>1</sup> Letter from Terri L. Hoskins, Executive Director–Senior Legal Counsel, AT&T Services, Inc., to Marlene H. Dortch, Secretary, FCC, CC Docket No. 02-6 (filed June 23, 2016) (*AT&T Letter*).

<sup>2</sup> Letter from Gina Spade, Counsel for Education Networks of America, Inc., to Marlene H. Dortch, Secretary, FCC, CC Docket No. 02-6 (filed May 23, 2016) (*Sweetwater Letter*).

<sup>3</sup> *AT&T Letter* at 1.

<sup>4</sup> *AT&T Letter* at 2.

which AT&T is still attempting to address as of the date of its correspondence.<sup>5</sup> As we note below, AT&T's claim that the pricing in its bid was straightforward and accurate is unconvincing. But even if it were convincing, this claim would have no bearing on the outcome of Sweetwater's appeal. Sweetwater gave AT&T full credit for the pricing section of its bid, so nothing in AT&T's letter would have changed the outcome of the bid evaluation process.

Furthermore, AT&T provides no evidence that Sweetwater's analysis of the pricing section of AT&T's bid was wrong. AT&T merely disputes the points made in Sweetwater's May 23 ex parte letter, asserting that AT&T's bid included "accurate all-inclusive pricing" without making any effort to identify factual support to explain or justify the specific language from its bid that suggests the opposite.<sup>6</sup> For example, AT&T disputes Sweetwater's conclusion that the pricing of AT&T's bid did not include installation charges.<sup>7</sup> But as Sweetwater explains in its appeal, AT&T's bid explicitly states that installation charges would be billed separately from service charges as the installation services were rendered, and that AT&T had not yet developed a plan for installing facilities to sites that it was not yet serving.<sup>8</sup> It was therefore reasonable, to say the least, for the experienced members of the bid evaluation panel to conclude that the total price of the bid did not include charges that AT&T had not even identified yet as being a part of the service it would provide to Sweetwater schools.<sup>9</sup>

AT&T also disputes Sweetwater's conclusion that the actual pricing of its bid could not be discerned because of AT&T's statement that it would provide service pursuant to the prices listed in AT&T's statewide NetTN contract.<sup>10</sup> Specifically, AT&T states: "AT&T's bid response did not state that Sweetwater should not use the pricing contained in its bid response. It would have been absurd for AT&T to submit one set of prices if it was obligated to charge a completely different set of prices."<sup>11</sup> Sweetwater agrees, for the record, that such behavior would have been absurd. Yet AT&T does not even acknowledge, much less explain, the language that Sweetwater quotes from its bid explaining that the terms and prices in the NetTN contract would govern the service AT&T would provide to Sweetwater "[n]otwithstanding anything contained

---

<sup>5</sup> *Sweetwater Appeal* at 23 (explaining that AT&T received 25 out of 25 points on the pricing section of Sweetwater's bid scoresheet, while ENA's competing bid received 16.2).

<sup>6</sup> *Sweetwater Letter* at 2; *see also Sweetwater Appeal* at 31-34 (quoting language in AT&T's bid that explains that its bid incorporates the prices in its statewide NetTN contract); *id.* at 34-37 (explaining that the pricing of AT&T's bid explicitly excluded installation charges).

<sup>7</sup> *AT&T Letter* at 1.

<sup>8</sup> *Sweetwater Appeal* at 35-36.

<sup>9</sup> This is an especially reasonable conclusion, given that AT&T did not have facilities in place to serve most of the geographic areas in which the Consortium schools districts were located. *Sweetwater Appeal* at 35.

<sup>10</sup> *AT&T Letter* at 2.

<sup>11</sup> *AT&T Letter* at 2.



in [this] RFP to the contrary.’”<sup>12</sup> This language thoroughly undermines AT&T’s post hoc explanation that it should have been obvious to the evaluators that if AT&T won the Sweetwater contract, it would incorporate the prices in its bid into the NetTN contract as the new lowest corresponding price.<sup>13</sup> If AT&T had really intended to incorporate the prices in its Sweetwater bid into the NetTN contract, rather than the other way around, there would have been no need for AT&T to mention the NetTN contract in its Sweetwater bid at all. Further, it is without consequence for AT&T to make such a claim now, after the contract has ended, for a bid it did not win. The submission of a bid for a services contract, by its very definition, demands that the bidder disclose all relevant information in clear, concise and unambiguous language. Untimely proffered verbiage to “explain” a bid is irrelevant and, in most cases, will result in the bid being rejected upon initial review.

However, to reiterate, the Sweetwater bid evaluators made every effort to give AT&T the benefit of the doubt in their analysis. The evaluators combed through AT&T’s bid to locate information that was misplaced under the wrong tabs; contacted AT&T with follow-up questions, even though it was not required to do so; and finally awarded AT&T the maximum number of points for pricing to be absolutely certain that they were being fair.<sup>14</sup> Despite all of these efforts, AT&T’s bid still came up short. None of the arguments in AT&T’s letter would change that outcome even if they were true, and the simple fact of the matter is they are not. Further, nothing in AT&T’s letter demonstrates any carelessness or impropriety in Sweetwater’s evaluation process.

As a final note, just last week a Tennessee school district serviced by AT&T experienced a complete outage of phone service for *five full days*.<sup>15</sup> This egregious failure of customer service and endangerment of Tennessee students by AT&T is far from unusual in the Sweetwater Consortium’s experience, and is all the more reason why Sweetwater stands by its decision to award its service contract to ENA.

---

<sup>12</sup> *Sweetwater Appeal* at 32.

<sup>13</sup> *AT&T Letter* at 2.

<sup>14</sup> See, e.g., Melanie Miller Affidavit at 18-19 (describing the efforts that the Sweetwater bid evaluators made to give AT&T the benefit of the doubt, including taking the unusual step of contacting AT&T to request clarification of aspects of its bid); Joan Gray Affidavit at 10-11 (describing how thoroughly the evaluators reviewed AT&T’s bid to ensure that they had not missed anything).

<sup>15</sup> See Attachment (“I have NEVER found a company that showed as much blatant disregard for customer service as I have with [AT&T], and that is one of the primary reasons that we have decided to swap our telecomm providers to ENA.”).

Ms. Dortch  
July 7, 2016  
Page 4

Please feel free to contact us if you have questions or would like additional information.

Very truly yours,  
LEWIS THOMASON KING KRIEG & WALDROP, P.C.



Charles W. Cagle  
Counsel to the Sweetwater Consortium

cc: Lisa Hone  
Ryan Palmer  
Aaron Garza  
Chas Eberle  
Bryan Boyle  
Sibo McNally  
Terri Hoskins, AT&T (via U.S. Mail)

**Cagle, Charles W.**

---

**From:** Will Lockert [<mailto:Will.Lockert@ccstn.org>]

**Sent:** Tuesday, June 28, 2016 1:31 PM

**To:** Resha Garrison <[Resha.Garrison@ccstn.org](mailto:Resha.Garrison@ccstn.org)>; "john.buchanan.1@att.com" ([john.buchanan.1@att.com](mailto:john.buchanan.1@att.com))' <[john.buchanan.1@att.com](mailto:john.buchanan.1@att.com)>; Sherry Rogers <[sr798v@att.com](mailto:sr798v@att.com)>

**Cc:** Paul Douglas <[PDouglas@system-integrations.com](mailto:PDouglas@system-integrations.com)>; Stacy Brinkley <[Stacy.Brinkley@ccstn.org](mailto:Stacy.Brinkley@ccstn.org)>; Dr. Tara Watson <[Tara.Watson@ccstn.org](mailto:Tara.Watson@ccstn.org)>

**Subject:** RE: ATT Problems

**Importance:** High

Resha, thank you for this update and stressing the importance of our telephony.

John, please do not take this as a personal offense, since it is not aimed at you and I have always held you in high regard, but rather the complete ineptness of the company in which you are employed. I have NEVER found a company that showed as much blatant disregard for customer service as I have with yours, and that is one of the primary reasons that we have decided to swap our telecomm providers to ENA. I understand that we are a relatively small school district and are rather insignificant in the global conglomerate that is AT&T, however... I know a lot of TC's and WHEN I TELL THEM that our district had a complete and total outage of phones for a minimum of 5 days because apparently your CS team didn't feel the need to get off their a\*\*\*\* and do something about it. That will not sit well with the other school districts that currently utilize AT&T as their telephone provider or ISP. I am also quite confident that this show of a lack of commitment is also souring a good 3<sup>rd</sup> party vendor like System Integrations in their future endeavors/partnerships with your company. Communication was first made on Friday morning, to then be followed up 2 additional times the same day, and here we are towards the end of the day on Tuesday and we are still without phones. John, I am sure that you are not pleased with how this has transpired, but it also pales in comparison to my continued disappointment and disdain with AT&T... unfortunately I cannot do a lot about it, but hopefully you can. Please make this right, and do it IMMEDIATELY. I hate that I am out of state at a conference this week and had to leave this difficult task of facilitating & correcting this issue with others, but please understand that when I meet with other TC's all throughout the state tonight at the TETA reception that this will be discussed. In closing, this is just continual fuel for the fire that is the FCC response to the Sweetwater Consortium... not hard to plainly compare the CS of a company like ENA, that stays with you on the phone till 10:00pm on the eve of the eRate posting deadline, that happens to be the same date as the birth of my 2<sup>nd</sup>, to ensure that opportunities are not missed and then the example of what I have continually seen with AT&T. John, I like you too much personally to see you work for a company that honestly doesn't care about anything other than making money.

**Thanks,**

**Will Lockert**

**Technology Coordinator/CTE Assistant**  
**Cheatham County School District**

**102 Elizabeth St.**

**Ashland City, TN 37015**

**Office: 615.746.1403**

**Cell: 615.390.7499**